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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1574 OF 2021

AKASH SUBHASH RATHOD

....APPLICANT

V/s.

THE STATE OF MAHARASHTRA

.....RESPONDENT

**Ms. Sandhya Mailagir i/b Anil D. Joshi for the applicant
Mrs. Rutuja Ambekar APP for the State**

CORAM : NITIN W. SAMBRE, J.

DATE: NOVEMBER 25, 2021.

P.C.:

1] Applicant is seeking regular bail in C.R. No. 675/2019 registered with Narpoli Police Station for offence punishable under Sections 304(2), 201 r/w 34 of the Indian Penal Code. After arrest on 30/11/2019, applicant was charge-sheeted.

2] Prosecution case against the applicant is, on 30/10/2019, alongwith Aakash and Lakhan, applicant had a session of alcohol. Deceased Ajay since became high under influence of liquor, went to sleep on the protection wall of Bhiwandi Creek. Applicant Aakash

alongwith Lakhan continued their drinking session.

3] All three of them i.e. applicant, Lakhan and deceased Ajay were under the influence of liquor. Applicant pushed Ajay in the creek out of fun, resulting into his death due to drowning. As such, offence in question.

4] Submissions of learned counsel for the applicant are, applicant is innocent as he had no intention to suppress the occurrence of event of death of Ajay. However, since all of them were under the influence of liquor and applicant just to have fun gave push to Ajay. It is claimed that he was not having knowledge about Ajay was not knowing swimming and that he will die due to drowning.

5] Learned APP opposed the prayer on the ground that applicant suppressed the commission of offence and there is enough evidence to infer involvement of the applicant.

6] Considered submissions.

7] On perusal of F.I.R. and other material on record, it cannot be inferred that applicant was having inimical terms with deceased Ajay. Rather, applicant, deceased Ajay and Lakhan had enjoyed their drinks together and were having fun.

8] It is in this background, applicant gave push to Ajay resultantly he fell in the creek and died due to drowning. The fact that applicant jumped in the creek to save Ajay is apparent from material available on record. Witness Lakhan has also tried to save Ajay by giving him support of rope.

9] As such, criminal intention of the applicant to cause offence cannot be prima facie inferred. Applicant has suffered incarceration for more than one year. There are no criminal antecedents.

10] As such, case for grant of bail is made out.

11] Before parting, it will be appropriate to place a word of

appreciation for the Investigating Officer for carrying out quality investigation in the matter.

(i) Applicant be released on bail in C.R. No. 675/2019 registered with Narpoli Police Station for offence punishable under Sections 304(2), 201 r/w 34 of the Indian Penal Code upon furnishing P.R. bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.

(ii) Applicant shall neither influence the prosecution witnesses in any manner nor tamper with the evidence.

(iii) Applicant shall regularly attend the trial, failing which Trial Court will be at liberty to take out proceedings for cancellation of bail.

(iv) Applicant shall furnish his contact number, residential address at the time of his release.

6] Application stands disposed of.

[NITIN W. SAMBRE, J.]